

REMARKS

Reconsideration of the present application is respectfully requested.

Claims 13-14 and 27 stand rejected under 35 USC §102(b) over Sims et al. Applicants respectfully disagree since the MPEP and relevant case law require that a reference disclose exactly what an Applicant has claimed in order to support a §102 rejection. In this case, the Examiner has interpreted the Sims et al. reference in a manner contradictory to what that reference actually teaches, and then compounded the error by assigning meanings to Applicants' claim language inconsistent with Applicants' written specification in violation of the MPEP and relevant case law. In particular, the rejections are justified based on the assertion that the Sims et al. "sensor (SE) is indirectly electrical contact with the actuator (ME)". Applicants respectfully assert that there is no such thing as "indirect electrical contact". It is either in contact or it is not. The Examiner has conceded that there is no electrical connection between the respective actuator and sensor circuits of the Sims et al. reference, but apparently is asserting that because elementary physics demonstrates that all electrical circuits interact with one another due to the electromagnetic field generated around a conductor when current is flowing therethrough. Thus, it appears that this phenomenon is what the Examiner is trying to express by the phrase "indirect electrical contact". If this is true, Applicants invite the Examiner to make this issue clear on the record to reduce issues for any forthcoming appeal. Applicants concede that every electrical circuit in the known universe inherently interacts with every other electrical circuit due to the electromagnetic field generated in a conductor due to the movement of electrons therethrough. Although this interaction is generally infinitesimal, Applicants also concede that the interaction may actually be measurable if field strengths and proximity elevate the effect to a magnitude large enough to be measured. But there is absolutely no evidence of record whatsoever to support the notion that the respective actuator and sensor circuits of Sims et al. have sufficiently high current flows and proximity to even demonstrate this known electrical phenomenon. Thus, it appears that the office action has conjured up an interpretation of the Sims et al. reference that is not supported by the reference itself. Then, the error was compounded by making a finding that electrical interaction without electrical contact is the same as an electrical connection. Therefore,

Applicants respectfully request that the outstanding §102(b) rejections based upon Sims et al. be withdrawn.

In an effort to better prevent Applicants' claim language from being interpreted inconsistent with Applicants specification without requiring the reader to actually read Applicants' specification, Applicants have incorporated language from the specification into claim 1 to better prevent it from being misread onto anything fairly taught by Sims et al. Therefore, Applicants again respectfully request that the outstanding §102(b) rejections based upon Sims et al. be withdrawn.

Claims 13-22 and 27-35 stand rejected under 35 USC §102(b) over Irokawa et al. Applicants respectfully disagree since the office action has again interpreted Applicants' claim language in a manner inconsistent with the specification in violation of the MPEP and relevant case law, and then compounded that error by interpreting Irokawa et al. inconsistent with its own description in order to support the outstanding rejections. Like Sims et al., Irokawa et al. flatly fails to show a sensor circuit electrically connected to the actuator circuit, as would be necessary to fairly read Applicants' claims onto anything taught by Irokawa et al. Thus, Applicants respectfully request that the outstanding rejections based upon Irokawa et al. be withdrawn.

Again, in an effort to better prevent Applicants claims from being misread onto Irokawa et al., Applicants have amended independent claims 13 and 17 in a manner that better prevents it from being interpreted inconsistent with Applicants' specification, without actually requiring the interpreter to read Applicants' specification. Therefore, Applicants again respectfully request that the outstanding §102(b) rejections based upon Irokawa et al. be withdrawn.

Claims 15-22 and 28-35 stand rejected under 35 USC §103(a) over Sims et al. in view of Irokawa et al. Since neither of the cited references even teach a sensor circuit electrically connected to an actuator circuit, the two reference combined can not even meet the requirements of showing all the features of Applicants' claims. Since neither reference even recognizes that a voltage spike will appear in an actuator circuit when the actuator comes to an abrupt stop, it is difficult to imagine how anyone with ordinary skill in the art could combine the two cited references without relying upon evidence not of record to arrive at Applicants' claimed invention. Therefore, Applicants respectfully request that the outstanding §103 rejections based upon Sims et al. in view of Irokawa et al. be withdrawn.

Claims 13-22 and 27-35 also stand rejected under §103(a) over the reverse combination of Irokawa et al. with Sims et al. Applicants respectfully request that these rejections also be withdrawn since, even when combined, the two references do not teach all of Applicants' claim limitations let alone reflect any insight regarding behavior in an actuator circuit when the moving actuator comes to an abrupt stop, as only taught in Applicants' specification. Thus, Applicants respectfully assert that regardless of which reference one begins with, there is simply inadequate evidence of record to support the notion that one with ordinary skill in the art could arrive at Applicants' claimed invention without innovating in a manner not taught by either reference. Applicants respectfully request that the Examiner further discuss these issues in any forthcoming office action so that issues for a potential appeal are reduced and the time of the Board is not unnecessarily wasted.

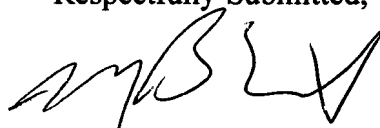
Claims 13, 14, and 17 stand rejected on the non-statutory obvious-double patenting over co-owned patent 6,285,115 in view of Sims et al. In addition, claims 13-22 and 27-35 stand rejected on the same grounds in view of Sims et al. and Irokawa et al. Applicants respectfully disagree since increasing the number of cited references to support a rejection of Applicants' claims is no substitute for references that actually teach the features required by the claims. Again, none of the cited references recognize Applicants' claimed strategy for detecting an abrupt stop in an actuator due to an electrical spike in the actuator circuit as detected by a sensor circuit electrically connected to the actuator circuit. One with ordinary skill in the art could not possibly mix and match, disregard and retain various features of the cited references to arrive at Applicants' claimed invention without innovating, which is forbidden by the MPEP and relevant case law. Therefore, Applicants respectfully request that the outstanding obvious type double patenting rejections be withdrawn.

Even if one could make the argument that the outstanding §103 and obvious type double patenting rejections are well made, Applicants' amendments further prevent any of Applicants' claims from being misread onto any fair combination of the cited references. These amendments have been made because this Examiner has apparently misinterpreted the mandates of the MPEP and relevant case law. In other words, the MPEP and relevant case law have long recognized there is a difference between reading claim language consistent with an Applicants' specification, and actually importing limitations from the specification into the claims. So that the Examiner's prior misapplication of the MPEP and relevant case law does not further inhibit the prosecution

of this application, the claims have been amended in a manner that does not effect their scope, but instead merely requires the claims to be read consistent with Applicants specification without actually requiring the Examiner to read anything other than the claims themselves.

This application is now believed to be in condition for allowance of claims 13-35. If the Examiner believes that some minor additional clarification would put this application in an event better condition for allowance, the Examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'MBL' with a stylized flourish at the end.

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